

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5053-01  
Bill No.: HB 2029  
Subject: Health, Public; Liability  
Type: Original  
Date: April 24, 2006

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**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |                           |                           |                           |
|---|---------------------------|---------------------------|---------------------------|
| FUND AFFECTED   | FY 2007                   | FY 2008                   | FY 2009                   |
| General Revenue   | Less than \$40,000        | Less than \$40,000        | Less than \$40,000        |
|   |                           |                           |                           |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>Less than \$40,000</b> | <b>Less than \$40,000</b> | <b>Less than \$40,000</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2007    | FY 2008    | FY 2009    |
|   |            |            |            |
|   |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                          |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2007</b> | <b>FY 2008</b> | <b>FY 2009</b> |
| Federal*  | \$0            | \$0            | \$0            |
|   |                |                |                |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>Federal Funds</b> | \$0            | \$0            | \$0            |

\*Income and costs of less than \$60,000 would net to \$0.

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2007</b> | <b>FY 2008</b> | <b>FY 2009</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Economic Development - Division of Professional Registration**, the **Department of Labor and Industrial Relations**, and the **Department of Insurance** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Health and Senior Services (DOH)** assume this proposal would not fiscally impact the operations of the DOH. DOH states if a fiscal impact were to result, funds to support the program would be sought through the appropriations process.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state this proposal is cited as the "Asbestos and Silica Claims Priorities Act" which grants a person exposed to asbestos or silica to bring or maintain a claim for physical impairment in which the exposure was a substantial contributing factor. The plaintiff shall be required to file a written report and supporting test results as evidence in conjunction with the complaint.

DMS states when Medicaid recipients receive personal injury settlements, DMS is to be repaid for any expenditure related to the injury. In order to collect, the DMS must assert a lien against the personal injury settlement.

ASSUMPTION (continued)

In FY 05, the average amount recovered per trauma lien was \$2,961, which would be the potential average cost recovery per claim. However, the DMS is unable to determine the number of recipients exposed to asbestos or silica or potential claims. Therefore, the fiscal impact to the DMS is unknown less than \$100,000.

|   |                     |         |         |
|---|---------------------|---------|---------|
| <u>FISCAL IMPACT - State Government</u> | FY 2007<br>(10 Mo.) | FY 2008 | FY 2009 |
|---|---------------------|---------|---------|

**GENERAL REVENUE**

Income - Department of Social Services -  
 Division of Medical Services

|   |                                     |                                     |                                     |
|---|-------------------------------------|-------------------------------------|-------------------------------------|
| Recovery of personal injury settlements | <u>Less than</u><br><u>\$40,000</u> | <u>Less than</u><br><u>\$40,000</u> | <u>Less than</u><br><u>\$40,000</u> |
|---|-------------------------------------|-------------------------------------|-------------------------------------|

|  |   |   |   |
|--|---|---|---|
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE</b> | <u><u>Less than</u></u><br><u><u>\$40,000</u></u> | <u><u>Less than</u></u><br><u><u>\$40,000</u></u> | <u><u>Less than</u></u><br><u><u>\$40,000</u></u> |
|--|---|---|---|

**FEDERAL**

Income - Department of Social Services -  
 Division of Medical Services

|   |                       |                       |                       |
|---|-----------------------|-----------------------|-----------------------|
| Recovery of personal injury settlements | Less than<br>\$60,000 | Less than<br>\$60,000 | Less than<br>\$60,000 |
|---|-----------------------|-----------------------|-----------------------|

Costs - Department of Social Services -  
 Division of Medical Services

|                        |                                       |                                       |  |
|------------------------|---------------------------------------|---------------------------------------|--|
| Program reimbursements | <u>(Less than</u><br><u>\$60,000)</u> | <u>(Less than</u><br><u>\$60,000)</u> | <u>( Less than</u><br><u>\$60,000)</u> |
|------------------------|---------------------------------------|---------------------------------------|--|

|  |                   |                   |                   |
|--|-------------------|-------------------|-------------------|
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE</b> | <u><u>\$0</u></u> | <u><u>\$0</u></u> | <u><u>\$0</u></u> |
|--|-------------------|-------------------|-------------------|

FISCAL IMPACT - Local Government

FY 2007  
(10 Mo.)

FY 2008

FY 2009

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal establishes the Asbestos and Silica Claims Priorities Act. In its main provisions, the proposal:

- (1) Defines "claimant," "asbestos claim," "asbestosis," "silica claim," "silicosis," and "substantial contributing factor";
- (2) Requires the exposure of asbestos or silica to be a substantial contributing factor to the physical impairment of the exposed person;
- (3) Requires the plaintiff to file no later than 60 days prior to trial a written report and supporting test results constituting prima facie evidence of the claimant's asbestos- or silica-related injury;
- (4) Disallows asbestos- or silica-related claims brought on behalf of a class or group except in claims relating to the exposed person and members of his or her household;
- (5) Requires a tort action alleging an asbestos claim based upon the nonmalignant condition of an exposed person to show that the exposed person has a physical impairment where exposure to the defendant's asbestos is a substantial contributing factor to the physical impairment;
- (6) Requires that a detailed narrative medical report and diagnosis by a qualified physician be included in any prima facie showing on behalf of a plaintiff's asbestos- or silica-related claim;
- (7) Specifies that no prima facie showing is required in an asbestos-related claim based upon mesothelioma;
- (8) Specifies any evidence relating to the prima facie showing of physical impairment related to the defendant's asbestos or silica will not be conclusive as to the liability of the defendant;

ASSUMPTION (continued)

(9) Requires evidence relating to physical impairment to comply with technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment incorporated in the American Medical Association's Guides to the Evaluation of Permanent Impairment;

(10) Requires evidence verifying that the diagnosing, qualified physician has taken a detailed medical and smoking history from the exposed person, including a thorough review of the exposed person's past and present medical problems and the most probable cause;

(11) Requires specific medical testing procedures for a showing of physical impairment;

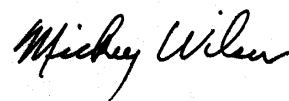
(12) Specifies that an asbestos- or silica-related claim arising out of a nonmalignant condition is a distinct cause of action from a claim for an asbestos- or silica-related cancer; and

(13) Specifies that a validly licensed physician in good standing in another state who testifies as a medical expert witness is deemed to have a temporary license to practice in Missouri for the sole purpose of providing testimony.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development -  
Division of Professional Registration  
Department of Labor and Industrial Relations  
Department of Insurance  
Department of Health and Senior Services  
Department of Social Services -  
Division of Medical Services



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